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ju/n
U.S. DISTRICT COURT
BOISE, IDAHO
JUL 13 1998
CLERK OF COURT
BOISE, IDAHO

Attorneys for Trustee, John H. Krommenhoek

UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

In Re:

Paul Rees Harward and
Janet Louise Harward,

Debtors.

Case No. 97-02754

**NOTICE OF HEARING
AND
OBJECTIONS TO
CLAIMS OF LIEN**

NOTICE OF HEARING

PLEASE TAKE NOTICE That the undersigned will bring the above Objections to Claims of Lien on for hearing before this Court at 550 W. Fort Street, 5th Floor, Boise, Idaho, on the **13th day of July, 1998, at the hour of 1:30 o'clock p.m.**, or as soon thereafter as counsel can be heard.

OBJECTIONS

Trustee objects to the claims of lien of Intermountain West Insulation and John Ward on the proceeds from the sale of the home located at 515 Sierra View, Eagle, Idaho which was sold by the trustee pursuant to this court's Amended Order Approving Sale of Property Re: 515 Sierra

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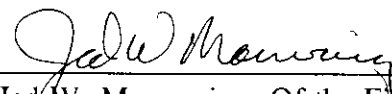
View ("Sale Order") filed December 17, 1997. Said claims of lien are invalid for failure to comply with the 24 hour certified mailing or delivery required by Idaho Code Section 45-507. Trustee further requests that the order direct the closing agent, Pioneer Title Company of Ada County ("Closing Agent"), to cancel its checks #1232000 in the amount of \$2,931 to Intermountain West Insulation and #0132003 to John Ward in the amount of \$6,861.38 and reissue those checks to the Trustee on behalf of the estate. In support of this motion the Trustee alleges as follows:

1. Pursuant to the Sale Order (copy attached as Exhibit A), the Trustee sold a partially completed single family home, which sale closed on December 24, 1997.
2. The Sale Order provided that nine lien claimants be paid from the closing the amounts specified, including the above two payments (Copy of checks attached as Exhibit B & C), subject to the Trustee's right to verify the validity of the liens. The Closing Agent distributed the checks to counsel for Trustee who has determined that the liens are invalid for failure to comply with Idaho Code Section 45-507 because the liens were not mailed by certified mail or delivered to the owner within 24 hours of recording the liens. *Ashley Glass Co., Inc. v. Hoff*, 123 Idaho 544, 850 p.2d 193 (1993).
3. The Trustee believes the proper procedure is to obtain an order sustaining the objection and have the Closing Agent cancel the checks and reissue the checks to the Trustee pursuant to the proposed order attached as Exhibit D. The proceeds then in the possession of the estate will be administered to the benefit of unsecured creditors.

DATED this 28 day of May, 1998.

EVANS, KEANE LLP

By


Jed W. Manwaring, Of the Firm
Attorneys for Trustee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28 day of May, 1998, a true and correct copy of the foregoing document was served by first-class mail, postage prepaid, and addressed to; by fax transmission to; by overnight delivery to; or by personally delivering to or leaving with a person in charge of the office as indicated below:

Paul Rees Harward
1818 E. Glenloch
Meridian, ID 83642

☒ U.S. Mail
☐ FAX
☐ Overnight Delivery
☐ Hand Delivery

D. Blair Clark
455 South Third
P. O. Box 2773
Boise, Idaho 83701

☒ U.S. Mail
☐ FAX
☐ Overnight Delivery
☐ Hand Delivery

John H. Krommenhoek, Trustee
P. O. Box 8358
Boise, ID 83706

☒ U.S. Mail
☐ FAX
☐ Overnight Delivery
☐ Hand Delivery

U.S. Trustee
P. O. Box 110
Boise, ID 83701

☒ U.S. Mail
☐ FAX
☐ Overnight Delivery
☐ Hand Delivery

Ken Ferguson
Intermountain West Insulation, Inc.
P. O. Box 4063
Boise, ID 83711

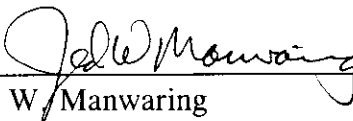
☒ U.S. Mail
☐ FAX
☐ Overnight Delivery
☐ Hand Delivery

John Ward
P. O. Box 492
Nampa, ID 83653

☒ U.S. Mail
☐ FAX
☐ Overnight Delivery
☐ Hand Delivery

Kathy Coontz
Pioneer Title Company
821 West State St.
Boise, ID 83702-5836

☒ U.S. Mail
☐ FAX
☐ Overnight Delivery
☐ Hand Delivery



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CLERK CAMERON S. BURKE
IDAHO

Attorneys for Trustee, John H. Krommenhoek

UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

In Re:

Paul Rees Harward and
Janet Louise Harward,

Debtors.

Case No. 97-02754

**AMENDED ORDER APPROVING
SALE OF PROPERTY RE: 515
SIERRA VIEW**

The Trustee's Motion for Approval of Sale of Real Property Re: 515 Sierra View, filed November 4, 1997 was heard on December 1, 1997, and the Motion for Amended Order Approving Sale of Property re: 515 Sierra View was heard upon a shortened notice period on December 17, 1997. Pursuant to 11 U.S.C § 363(f), and for good cause appearing the Trustee's amended motion is hereby granted. It now appears in the record that all parties claiming an interest in the property have been properly notified pursuant to Bankruptcy Rule 2002 and Local Rule 2002.1 as modified by this court's Order Shortening Time. All interested parties consented to the proposed sale, or failed to appear and/or file an objection to the proposed sale.

For good cause appearing, the Trustee shall sell to Jeffrey J. Reed and Margaret H. Reed, or their assigns, for \$150,500, the property commonly known as 515 Sierra View, Eagle, Idaho, also known as Lot 11, Block 2, Redwood Subdivision, Ada County, Idaho. Pursuant to this

AMENDED ORDER APPROVING SALE OF PROPERTY RE: 515 SIERRA VIEW - 1

EXHIBIT

A

order, the transfer is and shall be free and clear of all liens including but not limited to, deeds of trusts, mechanics liens, materialman liens, claims of lien, tax liens, and property tax liens. Subsequent to the proposed sale, all such liens claimed against said property shall no longer attach to the property. The property shall remain subject to recorded easements, restrictions, covenants, licenses, and non-development agreements of record to date.

From the sale proceeds the closing agent shall distribute the following payments:

Washington Mutual Bank, principal, interest, and costs on its Deed of Trust;
Property taxes and homeowner's association dues owing, if any;
6% commission to Metropolitan Real Estate in the amount of \$9,030.00;
Closing costs of Standard Title Ins. Policy for Buyers and 1/2 of closing escrow fee;
Franklin Building Supply, lien principal plus interest;
Goldsmith Charter, lien principal plus interest;
Gem State Truss Co., lien principal plus interest;
Low's Ready Mix, lien principal plus interest;
Kevin Luekenga, lien principal plus interest;
Intermountain West Insulation, Inc., lien principal plus interest;
David K. Ingraham, lien principal plus interest;
Ashley Glass Company, Inc., lien principal plus interest; and
John W. Ward, lien principal plus interest.

All the above lien claimants shall submit documentation to the Trustee verifying the validity of their liens. If the Trustee believes any of the liens to be invalid, he shall file an objection with this court and the distribution check shall be withheld from delivery to the lien claimant pending resolution of the objection. The net proceeds available after payment of the above amounts shall be disbursed to the Trustee, John H. Krommenhoek, with all remaining valid liens, if any, to attach to the net proceeds. Property taxes not yet due shall be prorated between the Buyers and

Seller as of the date of closing.

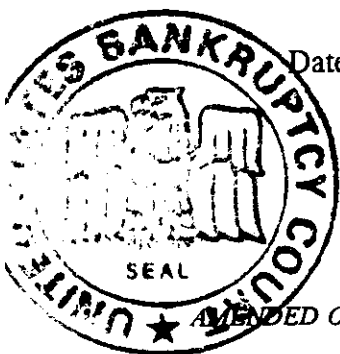
Dated this 17th day of December, 1997.

Certified to be a true and correct copy of original filed in my office.

Dated 12-17-97
Clerk, U.S. Bankruptcy Court

151 ALFRED C. HAGAN
UNITED STATES BANKRUPTCY JUDGE

Deputy



**PIONEER TITLE COMPANY
OF ADA COUNTY**

821 W. STATE STREET
BOISE, IDAHO 83702
(208) 336-6700

Escrow Trust Account

U.S. BANK
1000 Broadway Ave.
Boise, Idaho 83706

92-372/1231

CHECK NO. 0132003

132003

PAY

SIX THOUSAND EIGHT HUNDRED SIXTY-ONE AND 38/100

DATE

12/24/97

AMOUNT

6,861.38

TO THE ORDER OF JOHN WARD

PIONEER TITLE COMPANY OF ADA COUNTY

AUTHORIZED SIGNATURE

⑈132003⑈ ⑆123103729⑆ 367 7809 182⑈

CHECK NO. 0132003

12/24/97 BUYERS NAME: JEFFREY J. REED
SELLERS NAME: JOHN H. KROMMENHOEK, TRUSTEE
PROPERTY ADDRESS: 515 SIERRA VIEW
BOISE ID

PAYOFF

6,861.38

ESCROW NO: 162909

KC

EXHIBIT

13

**PIONEER TITLE COMPANY
OF ADA COUNTY**

821 W. STATE STREET
BOISE, IDAHO 83702
(208) 336-6700

Escrow Trust Account

ESCROW NO: 162909

U.S. BANK
1000 Broadway Ave.
Boise, Idaho 83706

92-372/1231

CHECK NO. 0132000

132000

PAY

TWO THOUSAND NINE HUNDRED THIRTY-ONE AND NO/100

DATE

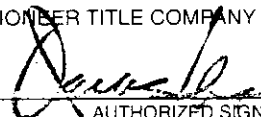
12/24/97

AMOUNT

2,931.00

TO THE ORDER OF INTERMOUNTAIN WEST INSULATION

PIONEER TITLE COMPANY OF ADA COUNTY


AUTHORIZED SIGNATURE

⑈132000⑈ ⑆123103729⑆ 367 7809 182⑈

CHECK NO. 0132000

12/24/97 BUYERS NAME: JEFFREY J. REED
SELLERS NAME: JOHN H. KROMMENHOEK, TRUSTEE
PROPERTY ADDRESS: 515 SIERRA VIEW
BOISE ID

PAYOFF

2,931.00

ESCROW NO: 162909 KC

EXHIBIT

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Attorneys for Trustee, John H. Krommenhoek

UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

In Re:

Paul Rees Harward and
Janet Louise Harward,

Debtor.

Case No. 97-02754

**ORDER SUSTAINING
OBJECTIONS TO CLAIMS OF
LIEN**

Pusuant to 11 USC § 502 and Bankruptcy Rule 3007, the Trustee's Objections to Claims of Lien of Intermountain West Insulation and John Ward are sustained. This Court's Amended Order Approving Sale of Property re:515 Sierra View filed December 17, 1997 is hereby supplemented that the closing agent, Pioneer Title Company of Ada County shall cancel its checks #1232000 in the amount of \$2,931 to Intermountain West Insulation and #0132003 to John Ward in the amount of \$6,861.38 and reissue those checks to the Trustee on behalf of the estate.

DATED this _____ day of May, 1998.

UNITED STATES BANKRUPTCY JUDGE

